

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

NEFTEL et al

Atty. Ref.: 2590-147; Confirmation No. 9705

Appl. No. 10/565,810

TC/A.U. 3767

Filed: 02/09/2006

Examiner: Larry Ross Wilson

For: A SYSTEM FOR PERFORMING PERITONEAL DIALYSIS

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July 14, 2010

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

INTERVIEW SUMMARY STATEMENT

In response to the Interview Summary Statement from the USPTO dated July 2, 2010, applicant respectfully disagrees with the statements on the continuation sheet. The undersigned discussed with the Examiner that the claimed invention consists of the claimed liquid distribution system that is separate from the claimed partial peristaltic pump and that the claimed ports connected to the claimed pump are unidirectional. As discussed by the undersigned at the interview, Kamen teaches away from these features because Kamen requires the use of two membrane pumps that are integral with (contained within) the liquid distribution system of Kamen, i.e., the two membrane pumps of Kamen are not separate from the liquid distribution system of Kamen. This is in contrast to the applicant's claimed partial peristaltic pump that is separate from the claimed liquid distribution system in applicant's claimed invention.

Moreover, Kamen's system does not have the applicant's claimed unidirectional ports. It appears that the Examiner is contending that Kamen's ports are "unidirectional" because they are

allegedly “unidirectional for part of the cycle.” This makes no sense and is a misinterpretation of the meaning of “unidirectional” to those of skill in the art. “Unidirectional” ports means that fluid flows in only one direction during the device’s operation. If this was not the case, what would bidirectional mean? Would this mean that fluid is flowing in both directions at the same time — which is impossible in any operational pump port. In other words, “unidirectional” according to the Examiner would cover all operational pump ports even though those pump ports pass fluid in different directions at different times. Of course, Kamen must have fluid flowing in one direction through its pump ports at one time and then another direction at another time. These types of ports are not known as “unidirectional” ports. Instead, they are “bidirectional” ports.

Kamen’s ports are undoubtedly “bidirectional” — as well known to those of skill in the art. Some of the best evidence of the “bidirectional” ports is illustrated in Kamen’s Figures 32 and 33 that, respectively, show a fill phase and a dwell phase. Those Figures contain arrows which show the direction of the liquid. As undeniably shown in those Figures, for the same ports, the liquid direction is opposite (bidirectional) between Figure 32 and Figure 33. More specifically, in Figure 32, the liquid is flowing through the following successive elements F1 -> F6 -> P1 -> F8 -> F5. In contrast, in Figure 33, the liquid is flowing through the following successive elements F4 -> F8 -> P1 -> F6 -> F1 in figure 33. This additional bidirectional/unidirectional difference between Kamen’s system and the applicant’s claimed system further demonstrates that applicant’s claimed apparatus is structurally and functionally different than Kamen’s apparatus.

For at least the foregoing reasons, Kamen teaches away from the claimed invention because Kamen’s apparatus requires two membrane pumps contained within its liquid distribution system, and Kamen’s ports are bidirectional ports. In contrast, the claimed invention requires that the partial peristaltic pump be separate from the liquid distribution system and that the ports are unidirectional. These features are nowhere disclosed or suggested by Kamen itself or in conjunction with any other secondary reference. Kamen teaches away from the claimed design.

Indeed, if Kamen were modified in the fashion suggested by the Examiner, then it would destroy the design of the Kamen device. This confirms improper hindsight reconstruction.

In summary, there is no prima facie case of obviousness.

The undersigned respectfully requests that the Examiner consider the foregoing information and withdraw the rejections and pass this application to allowance so that an appeal can be avoided.

Respectfully submitted,

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